

LAW OFFICES OF  
MOSCONE, EMBLIDGE & QUADRA, LLP  
180 Montgomery Street, Suite 1240  
San Francisco, California 94104-4230  
Tel: (415) 362-3599  
Fax: (415) 362-7332

January 12, 2005

**By Facsimile**

Daniel Purcell  
Keker & Van Nest  
710 Sansome Street  
San Francisco, California 94111

RE: *Tennison/Goff v. City and County of San Francisco, et al.*  
Case No. 04-0574 CW (consolidated)

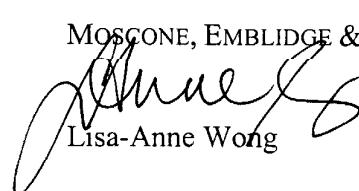
Dear Dan:

Sanders' first request for production to Tennison sought copies of copies of Tennison's records of incarceration that your office subpoenaed from Mule Creek State Prison, the California Department of Corrections, and the Board of Prison Terms. We still have not received copies of those documents, even though we agreed on the language and terms of the stipulated protective order in early December 2004. The stipulated protective order will be filed today, with a letter asking Judge Chen to grant the order.

Please produce copies of Tennison's records of incarceration at your earliest convenience. We would like to receive the documents by the end of this week. Please call Jim or me if you have questions. Thank you.

Very truly yours,

MOSCONE, EMBLIDGE & QUADRA, LLP

  
Lisa-Anne Wong

cc: Evan Ackiron  
Charles Bonner  
Randy Daar  
John Scott  
Scott Wiener

**EXHIBIT R**

HP LaserJet 3100  
Printer/Fax/Copier/Scanner

AUTO ACTIVITY REPORT for  
Moscone, Emblidge & Quadra, LLP  
415 984 0414  
Jan-12-05 4:41PM

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
15	2/14 12:58PM	.....	16194419406.....	Send.....	30	EC 96	In Progress.....
622	1/13 5:13PM	.....	4530441.....	Send.....	38	EC 96	In Progress.....
740	1/11 9:33AM	1'36"	831 753 0293	Send.....	1/ 1	EC120	Completed.....
741	1/11 9:34AM	1'14"	831 753 0293	Send.....	3/ 3	EC144	Completed.....
742	1/11 9:36AM	0'40"	831 753 0293	Send.....	2/ 2	EC144	Completed.....
743	1/11 10:50AM	8'26"	831 753 0293	Receive.....	25	EC144	Completed.....
744	1/11 1:30PM	.....	Ad Hoc Broadcast.....	Send.....	.....	.....	Completed.....
744	1/11 1:31PM	2'12"	415 551 5721	Send.....	2/ 2	EC120	Completed.....
744	1/11 1:34PM	0'38"	17145469035.....	Send.....	2/ 2	EC144	Completed.....
744	1/11 1:35PM	0'32"	415 403 0202	Send.....	2/ 2	EC144	Completed.....
745	1/11 2:44PM	.....	Ad Hoc Broadcast.....	Send.....	.....	.....	Completed.....
745	1/11 2:45PM	1'38"	Keker & Van Nest LLP	Send.....	.....	.....	Completed.....
745	1/11 2:47PM	1'39"	415 421 1331	Send.....	4/ 4	EC144	Completed.....
745	1/11 2:49PM	1'25"	4154425108	Send.....	4/ 4	EC144	Completed.....
745	1/11 2:51PM	2'28"	5543837.....	Send.....	4/ 4	EC144	Completed.....
746	1/11 3:02PM	3'23"	8662056321	Send.....	4/ 4	EC144	Completed.....
747	1/11 3:09PM	2'44"	4152889755	Send.....	10/10	EC144	Completed.....
748	1/11 3:19PM	0'22"	415 837 1404	Send.....	10/10	EC144	Completed.....
749	1/11 4:11PM	0'00"	16714758890.....	Send.....	1/ 1	EC144	Completed.....
750	1/11 4:12PM	0'00"	0116714758890.....	Send.....	0	.....	.....
751	1/11 4:13PM	5'00"	6714728890	Send.....	0/ 2	.....	Canceled by Operator..... 943
752	1/12 11:27AM	0'34"	Travel Center	Send.....	12/12	EC144	Completed.....
753	1/12 12:13PM	2'33"	415 551 5701	Receive.....	1	EC144	Completed.....
753	1/12 12:17PM	0'54"	415 551 5701	Send.....	4/ 5	EC 96	Communication Error..... 1042
754	1/12 12:20PM	1'40"	415 551 5701	Send.....	2/ 5	EC 96	Completed.....
754	1/12 12:23PM	1'51"	415 551 5701	Send.....	2/ 5	EC 96	Communication Error..... 1042
755	1/12 12:47PM	2'06"	8662112745	Send.....	4/ 5	EC 96	Completed.....
756	1/12 1:06PM	0'36"	1-888-336-7147 Fax I	Send.....	6/ 6	EC144	Completed.....
757	1/12 2:37PM	1'58"	5543837.....	Receive.....	1	EC144	Completed.....
758	1/12 2:40PM	0'51"	415 905 0202	Send.....	4/ 4	EC120	Completed.....
759	1/12 3:38PM	0'39"	.....	Send.....	3/ 3	EC144	Completed.....
760	1/12 4:32PM	.....	Ad Hoc Broadcast.....	Receive.....	0	.....	No Fax Detected..... 1181
760	1/12 4:41PM	.....	3312738.....	Send.....	.....	.....	Pending.....
760	1/12 4:33PM	0'40"	Keker & Van Nest LLP	Broadcast.....	2	.....	Pending.....
760	1/12 4:34PM	0'35"	4154425108	Send.....	2/ 2	EC144	Completed.....
760	1/12 4:35PM	0'00"	3312738.....	Send.....	2/ 2	EC144	Completed.....
760	1/12 4:35PM	0'38"	415 421 1331	Send.....	0/ 2	.....	Remote Fax was Busy..... 961
760	1/12 4:36PM	1'05"	5543837.....	Send.....	2/ 2	EC144	Completed.....
761	1/12 4:37PM	.....	Ad Hoc Broadcast.....	Send.....	2/ 2	EC120	Completed.....
761	1/12 4:41PM	.....	3312738.....	Send.....	.....	.....	Pending.....
761	1/12 4:41PM	.....	5543837.....	Broadcast.....	3	.....	Pending.....
761	1/12 4:38PM	0'46"	Keker & Van Nest LLP	Broadcast.....	3	.....	Pending.....
761	1/12 4:39PM	0'46"	415 421 1331	Send.....	3/ 3	EC144	Completed.....
761	1/12 4:40PM	0'44"	4154425108	Send.....	3/ 3	EC144	Completed.....
761	1/12 4:41PM	0'00"	3312738.....	Send.....	0/ 3	.....	Remote Fax was Busy..... 961
760	1/12 4:41PM	0'00"	5543837.....	Send.....	0/ 3	.....	Remote Fax was Busy..... 961
		.....	3312738.....	Send.....	0	.....	In Progress.....
Total		52'53"	Pages Sent: 103	Pages Printed: 28			

HP LaserJet 3100  
Printer/Fax/Copier/ScannerSEND CONFIRMATION REPORT for  
Moscone, Embilidge & Quadra, LLP  
415 984 0414  
Jan-12-05 4:47PM

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
762	1/12 4:47PM	0'39"	415 331 2738	Send.....	2/ 2	EC144	Completed.....
Total		0'39"	Pages Sent: 2		Pages Printed: 0		

LAW OFFICES OF  
MOSCONE, EMBILIDGE & QUADRA, LLP  
110 Montgomery Street, Suite 1240  
San Francisco, California 94104-3999  
Tel: (415) 362-3599  
Fax: (415) 362-7332

**FACSIMILE COVER SHEET****Wednesday, January 12, 2005**

TO:	Daniel Purcell	FAX:	(415) 397-7188
CC:	John Houston Scott The John Houston Scott Law Firm	FAX:	(415) 442-3108
CC:	Charles Bonner, Esq.	FAX:	(415) 331-2738
CC:	Randolph Durr	FAX:	(415) 421-1331
CC:	Evan Ackiron Scott Weiner Deputy City Attorney	FAX:	(415) 554-3837

FROM: Lisa-Anne M. Wong NO. OF PAGES INCLUDING COVER: 2

RE: Tennison/Goff v. City and County of San Francisco

MESSAGE: Please see attached correspondence.

If you did not receive all of the pages or there is another problem, please call Laura Helland at (415) 362-3599, ext. 44.

**CONFIDENTIALITY NOTE**

THIS AND ANY ACCOMPANYING PAGES CONTAIN INFORMATION FROM THE Law Offices of Moscone, Embilidge & Quadra, LLP which is confidential and privileged. The information is intended for the use of the individual or entity named above. If you are not the intended recipient, then be aware that any disclosure, copying, distribution or use of the accompanying document (or the information contained in it) is prohibited. If you have received this facsimile transmission in error, please notify our offices immediately so that we can arrange for retrieval at no cost to you.

JAMES A. QUADRA, State Bar # 131084  
LISA-ANNE M. WONG, State Bar # 163729  
MOSCONCONE, EMBLIDGE & QUADRA, LLP  
180 Montgomery Street, Suite 1240  
San Francisco, California 94104  
Telephone: (415) 362-3599  
Facsimile: (415) 362-7332

Atorneys for Defendants PRENTICE EARL  
SANDERS and NAPOLEON HENDRIX

CHARLES A. BONNER, State Bar # 85413  
LAW OFFICE OF CHARLES A. BONNER  
180 Harbor Drive, No. 227  
Sausalito, California 94965  
Telephone: (415) 331-3070  
Facsimile: (415) 331-2738

Attorney for Defendant  
PRENTICE EARL SANDERS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN TENNISON,

Case No. C04-0574 CW

**Plaintiff.**

vs.

CITY AND COUNTY OF SAN FRANCISCO; et al.,

**STIPULATED PROTECTIVE ORDER  
REGARDING CONFIDENTIAL  
INFORMATION**

## Defendants.

## ANTOINE GOFF.

**Plaintiff.**

VS.

CITY AND COUNTY OF SAN  
FRANCISCO; et al.  
Defendants.

## **EXHIBITS**

1       1. On or about October 7, 2004, counsel to the parties in these consolidated action  
2 met and conferred regarding certain outstanding discovery matters, including but not limited to  
3 Plaintiff Tennison's request for production of the San Francisco Police Department's personnel  
4 files, disciplinary files, training and supervision records and the San Francisco Office of  
5 Citizen's Complaints records concerning defendants Chief Prentice Earl Sanders and Inspector  
6 Napoleon Hendrix.

7       2. Defendants agreed to produce, subject to a stipulated protective order, records of  
8 the San Francisco Police Department and Office of Citizen Complaint (a) concerning Sanders  
9 and Hendrix; and (b) relating to any acts of evidence suppression or fabrication and/or witness  
10 tampering taking place within the time frame set by Magistrate Judge Chen in this action of five  
11 years prior to the commencement of the Shannon murder investigation to five years after the  
12 close of the prosecution, or 1984 through 1996. Further, Defendants have requested that  
13 Plaintiffs produce confidential records of the State of California and various of its agencies that  
14 relate to Plaintiffs' imprisonment. The records described in this paragraph are hereinafter  
15 referred to as "CONFIDENTIAL INFORMATION."

16       3. In addition to the CONFIDENTIAL INFORMATION described above that will  
17 be produced pursuant to this Order, Plaintiffs have requested additional personnel information  
18 from Defendants, which information Defendants have refused to produce. Nothing in this order  
19 shall prevent Plaintiffs from seeking an order of the Court compelling Defendants to produce that  
20 additional personnel information already requested, or from seeking any additional discovery  
21 from Defendants in this litigation, including discovery of additional confidential material.

22       4. Defendants shall produce CONFIDENTIAL INFORMATION to counsel for  
23 Plaintiffs, and Plaintiffs shall produce CONFIDENTIAL INFORMATION to counsel for  
24 Defendants, subject to the terms of this Protective Order. The party designating any  
25 CONFIDENTIAL INFORMATION, and producing that CONFIDENTIAL INFORMATION,  
26 subject to the terms of this Protective Order shall confirm the status of that material under this  
27 Protective Order by affixing the legend "CONFIDENTIAL INFORMATION" on all copies of  
28 that material produced in this litigation.

1       5. The CONFIDENTIAL INFORMATION shall not be provided, displayed,  
2 exhibited, played, or otherwise disclosed, by Counsel to other persons except as specifically  
3 provided herein.

4       6. Counsel for Plaintiffs and counsel for Defendants (referred to hereinafter  
5 collectively as "Counsel") may exhibit and/or disclose CONFIDENTIAL INFORMATION only  
6 to the following categories of persons and no other unless authorized by order of the Court:

7           a. Counsel for any party and their staff;  
8           b. Experts, investigators, or consultants retained by Counsel to assist in the  
9 evaluation, preparation, or trial of this case; however, before any expert, investigator, or  
10 consultant is permitted to review the CONFIDENTIAL INFORMATION, such individual must  
11 agree to comply with the terms of this Protective Order by executing the document attached as  
12 *Exhibit A*. Counsel shall file and serve any Agreement to Comply with the terms of the Order  
13 upon its execution; however, Counsel shall not be required to file any Agreement to Comply any  
14 earlier than the date that Expert Disclosures are required to be made. Experts, investigators, and  
15 consultants shall not have any power to authorize further disclosure of CONFIDENTIAL  
16 INFORMATION to any other person.

17       7. Plaintiffs' counsel may **not** provide originals or copies of any CONFIDENTIAL  
18 INFORMATION to Plaintiffs JOHN TENNISON or ANTOINE GOFF absent the written  
19 agreement of counsel for the City and County of San Francisco and counsel for Hendrix and  
20 Sanders, or a Court order. Defendants' counsel may **not** provide originals or copies of any  
21 CONFIDENTIAL INFORMATION to Defendants CITY AND COUNTY OF SAN  
22 FRANCISCO, GEORGE BUTTERWORTH, NAPOLEON HENDRIX, or PRENTICE EARL  
23 SANDERS absent the written agreement of counsel for Tennison and Goff, or a Court order. For  
24 purposes of evaluating the case's settlement value or a potential jury verdict, Counsel may  
25 discuss the general nature of the CONFIDENTIAL INFORMATION with his or her clients  
26 without disclosing any identifying details about a specific incident or any documents.

27       8. Nothing contained in this order shall prohibit any person, including any persons  
28 described in 6(a-b) above, from using or referring to CONFIDENTIAL INFORMATION

1 covered by this Protective Order in motion papers or pleadings filed with the Court, provided  
2 that adequate provision is made to protect the confidentiality of the CONFIDENTIAL  
3 INFORMATION and provided that any portion of such motion papers or legal pleadings that  
4 reference said CONFIDENTIAL INFORMATION, if filed, are requested to be filed under seal  
5 pursuant to the Court's rules and procedures (see Civil Local Rule 79-5).

6 9. In the event any person described in 6(a-b) above, desires to exhibit documents or  
7 disclose CONFIDENTIAL INFORMATION covered under this stipulation to witnesses during  
8 trial or pretrial proceedings, such person shall meet and confer with counsel for the opposing  
9 parties to reach an agreement, in accordance with the Court's rules and procedures, on an  
10 appropriate method for disclosure. Unless otherwise agreed, transcripts and exhibits that  
11 incorporate documents and CONFIDENTIAL INFORMATION covered under this stipulation  
12 shall be sealed in accordance with the Court's rules and procedures, and shall be subject to the  
13 provisions of this Protective Order.

14 10. At the conclusion of this litigation, either by final judgment or settlement,  
15 Counsel for Plaintiffs shall return all copies of the CONFIDENTIAL INFORMATION covered  
16 by this Stipulation and Order, including all copies provided to any persons described in 6(a-b)  
17 above, to counsel for the City, and Counsel for Defendants shall return all copies of the  
18 CONFIDENTIAL INFORMATION covered by this Stipulation and Order, including all copies  
19 provided to any persons described in 6(a-b) above, to counsel for Tennison and Goff, within 30  
20 days of the date of final judgment or settlement. Notwithstanding the foregoing provisions of  
21 this paragraph, any Counsel in this case shall be permitted to retain for his or her files one copy  
22 set of all pleadings filed with the Court, by any and all parties, in this case.

23 11. If the Court finds that any person, including any person described in 6(a-b) above,  
24 is responsible for the unauthorized disclosure of any documents, records or Confidential  
25 Personnel Information disclosed pursuant to this Protective Order, Counsel, or any person  
26 disclosing such documents, including any persons described in 6(a-b) above, or any of them,  
27 may be subject to sanctions, including possible sanctions for contempt of court.

28

12. This Stipulation and Order shall be in effect upon execution by all counsel to these consolidated actions.

SO AGREED AND STIPULATED:

DATED: 1-6-05

KEKER & VAN NEST, LLP

By: DANIEL PURCELL

Attorneys for Plaintiff John Tennison

1 DATED: \_\_\_\_\_

2 THE SCOTT LAW FIRM

3 By: \_\_\_\_\_  
4 JOHN HOUSTON SCOTT

5 Attorneys for Plaintiff Antoine Goff

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 DATED: 12/8/04

2 RANDOLPH DAAR

3 By:

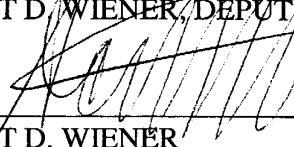
4 RANDOLPH DAAR

5 Attorneys for Plaintiff Antoine Goff

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 DATED: 12/10/04

2 DENNIS J. HERRERA, CITY ATTORNEY  
3 EVAN A. ACKIRON, DEPUTY CITY ATTY  
4 SCOTT D. WIENER, DEPUTY CITY ATTY

5 By:   
6 SCOTT D. WIENER

7  
8  
9 Attorneys for Defendants City and County of San  
10 Francisco and George Butterworth

11 DATED: 12/9/04

12 MOSCONE, EMBLIDGE & QUADRA, LLP

13 By:   
14 JAMES A. QUADRA

15 Attorneys for Defendants Sanders and Hendrix

16 ORDER

17 IT IS SO ORDERED.

18 DATED: \_\_\_\_\_

19 By:  
20 HON. EDWARD M. CHEN  
United States Magistrate Judge

1 EXHIBIT A

2 John Tennison v. City and County of San Francisco, et al.; Antoine Goff v. City and County of  
3 San Francisco, et al.

4 Case No. C04-00574 CW, U.S.D.C., Northern District of California

5  
6 **AGREEMENT TO COMPLY WITH STIPULATED PROTECTIVE ORDER FOR**  
7 **CONFIDENTIAL PERSONNEL INFORMATION**

8 I, \_\_\_\_\_, have read and understand the Court's  
9 Protective Order for CONFIDENTIAL INFORMATION. I agree to abide by all terms of the  
10 Order. In addition, I specifically understand and agree to the following:

11 1. I will not disclose the CONFIDENTIAL INFORMATION to any other person.  
12 2. I understand that I have no power to authorize any other person to review the  
13 CONFIDENTIAL INFORMATION.  
14 3. I agree not to make copies of the CONFIDENTIAL INFORMATION.  
15 4. I agree to return the CONFIDENTIAL INFORMATION to the Counsel who  
16 provided that information to me, or Counsel for the party that produced it, at or before the  
17 conclusion of this litigation.  
18 5. I understand that if I violate any of the terms of the Protective Order, then the  
19 Court may impose sanctions on me, the party to this case on whose behalf I have been retained to  
20 act, or that party's counsel.

21  
22 SO AGREED:

23  
24 DATE

SIGNATURE

25  
26 PRINT NAME

**PROOF OF SERVICE**

I, Laura Helland, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action.

On January 12, 2005, I served the attached:

• **STIPULATED PROTECTIVE ORDER REGARDING CONFIDENTIAL INFORMATION**

on the interested party(ies) named below:

Ethan A. Balogh  
Daniel Purcell  
Keker & Van Nest, LLP  
710 Sansome Street  
San Francisco, California 94111-1704

Evan Ackiron  
Scott Wiener  
City Attorney  
Office of the City Attorney  
1390 Market Street, 6<sup>th</sup> Floor  
San Francisco, California 94102-5408

Charles A. Bonner  
Law Office of Charles A. Bonner  
180 Harbor Drive, No. 227  
Sausalito, California 94965

Randolph Daar, Esq.  
506 Broadway Street  
San Francisco, CA 94133

John Houston Scott  
The Scott Law Firm  
153 Townsend Street, Suite 950  
San Francisco, CA 94107

I served the attached document(s) in the manner indicated below:

**BY MAIL:** I caused true and correct copy(ies) of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) named above and, following ordinary business practices, placed said envelope(s) at the Law Offices of Moscone, Emblidge & Quadra, LLP, 180 Montgomery, Ste. 1240, San Francisco, California, 94104, for collection and mailing with the United States Postal Service and there is delivery by the United States Post Office at said address(es). In the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed January 12, 2005, at San Francisco, California.

Laura Helland  
Laura Helland

LAW OFFICES  
**KEKER & VAN NEST**  
 LLP

710 Sansome Street  
 SAN FRANCISCO, CA 94111-1704  
 TELEPHONE (415) 391-5400  
 FAX (415) 397-7188

**FACSIMILE TRANSMISSION COVER SHEET**

January 13, 2005

<b>To</b>	<b>Telephone</b>	<b>Facsimile</b>
Lisa-Anne Wong, Esq. Moscone, Emblidge & Quadra, LLP	(415) 362-3599	(415) 362-7332

**cc:**

John Houston Scott The Scott Law Firm	(415) 442-5100	(415) 442-5108
Evan H. Ackiron, Deputy City Attorney	(415) 554-3856	(415) 554-3837

<b>From</b>	<b>Telephone</b>	<b>Code</b>
Daniel Purcell, Esq.	(415) 391-5400	5972/jlw

Re: *Tennison v. City of San Francisco, et al.*  
 Case No. C 04-00574 CW

**Number of Pages (Including Cover): 5**

**COMMENTS**

*Please see attached.*

<b>Operator</b>	<b>Time Sent</b>
-----------------	------------------

**IF YOU ENCOUNTER ANY DIFFICULTIES RECEIVING THIS TRANSMISSION,  
 PLEASE CALL (415) 676-2277 OR (415) 391-5400**

The information contained in this facsimile transmission is legally privileged and confidential and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please notify us immediately by telephone, and return the original transmission to us at the above address via the U.S. Postal Service. Thank you.

LAW OFFICES  
**KEKER & VAN NEST**  
**LLP**

710 SAN SIMEON STREET  
 SAN FRANCISCO, CA 94111-1704  
 TELEPHONE (415) 391-5400  
 FAX (415) 397-7188  
 WWW.KVN.COM

DANIEL PURCELL  
 DEP@KVN.COM

January 13, 2005

VIA FACSIMILE

Lisa-Anne M. Wong, Esq.  
 Moscone, Emblidge & Quadra, LLP  
 180 Montgomery Street, Suite 1240  
 San Francisco, CA 94104

Re: *John Tennison v. City and County of San Francisco*

Dear Lisa-Anne:

This responds to your letter of yesterday regarding Mr. Tennison's records of incarceration. We previously discussed this issue in an e-mail exchange in early December 2004, and I informed you of our position at that time. Our position has not changed. We think your request for these records is overbroad. We invite you to narrow your request and explain which specific records you want to see and why they are relevant. We will consider any narrowed request.

For your reference, I am enclosing a printout of the December 2004 e-mails, so you can see what I previously said on this subject. You should feel free to follow up with me or Steven Ragland if you feel it is appropriate.

Sincerely,



Daniel Purcell

DEP/jlw  
 Enclosure

cc: John H. Scott, Esq.  
 Evan H. Ackiron, Esq.

**Daniel Purcell**

**From:** Daniel Purcell  
**Sent:** Thursday, December 02, 2004 11:50 AM  
**To:** James Quadra; Lisa Anne Wong  
**Cc:** 'Scott Wiener'; 'Evan.ackiron@sfgov.org'; 'John Scott'; 'Randy Daar'; Elliot Peters; Ethan Balogh; Steven Ragland  
**Subject:** RE: Tennison

Jim and Lisa-Anne,

We need to get this issue resolved. We first requested the personnel-file information on June 30, 2004 -- more than five months ago. You have known at least since the October 7, 2004 meet-and-confer session that we intended to seek production of a broader range of personnel-file than you are willing to provide. At that same session, Jim -- not plaintiffs' counsel -- voluntarily offered to submit the entire personnel files to Judge Chen so the Court could resolve the dispute.

Given that, it's disheartening to hear that "a complete set of the files is not yet available to submit to the court." Frankly, I'm at a loss to understand how that could possibly be so. You have had plenty of time to obtain the complete file. (How could you have culled the personnel material you are currently willing to produce in good faith without having the complete file?) You have known for nearly two months (at least) that we are at an impasse regarding the scope of production. You suggested submitting the entire file to the Court, not us. How is it possible that, after all this time, you are still not in position to give the Court the information it needs to resolve this issue? You have objected strenuously when we have accused your office of obstructing discovery in this case, but there really is no other way to describe this sort of conduct.

I also fail to see what difference it could make that OCC hasn't yet provided a complete set of the files to the City Attorney. If you had the files, you could provide them to the City Attorney yourself. In any event, this is your discovery, not the City's, and the fact that the City isn't in possession of the documents is no reason to delay putting the issue before the Court.

Given your e-mail below, I assume we are now in full agreement on the terms of the protective order respecting production of defendants' personnel-file information. We agree to be bound by the terms of the order respecting the personnel material. You have agreed to produce the personnel material described in paragraph 2 of the order. There is nothing for Judge Chen to resolve regarding these documents, so there is no reason for you to delay producing them. Please do so immediately.

With respect to the remainder of the personnel files, please confirm that you do not possess the complete file and the problem is not that the OCC hasn't yet furnished a copy of the file to the City Attorney. If you do not have the complete file, please also let us know when you will have it and confirm you are doing everything in your power to obtain it as quickly as possible. We do not want to bombard Judge Chen with piecemeal requests to resolve this dispute. It would be best for all parties to put the entire file before him at one time. Obviously, our decision as to whether to submit part of the file to him now or submit the entire file to him later will depend on how long it will take you to obtain the remainder of the file.

Finally, with respect to Mr. Tennison's medical and psychiatric records, defendants are not necessarily entitled to those records in this case. We do not see how it could be relevant to this case if Mr. Tennison, for example, sprained his ankle playing basketball while in prison and received treatment of that injury. If defendants are willing to narrow their request, please let Steven Ragland know. We will consider any narrowed request. As you correctly assumed, we will insist that any of Mr. Tennison's medical information that is produced in this case be subject to the protective order. In any event, the question of production of this information is unrelated to production of the personnel-file information, and is no basis to further delay producing the personnel files.

In short, we are asking you to 1) immediately produce the personnel material you have agreed to produce, under the protective order we have negotiated and agreed binds us in this case; 2) obtain the remainder of the personnel file as soon as possible; and 3) give us a timetable for getting that entire file to Judge Chen. We want

to get the file to Judge Chen by next week. This really has gone on long enough.

-----Original Message-----

**From:** James Quadra  
**Sent:** Wednesday, December 01, 2004 5:36 PM  
**To:** Daniel Purcell  
**Cc:** Lisa Anne Wong  
**Subject:** Tennison

Dan:

Below is a message from Lisa Anne. Her email crashed today and she asked me to forward it to you.

Dan,

We have reviewed the proposed stipulated protective order. We have no objection to expansion of the order to include certain of plaintiff's records. However, I understood that the protective order would also embrace plaintiff's medical and psychological records, if any, which are responsive to some of the document demands about which Steven Ragland and I have been conferring, and should be produced. Please clarify whether you intend to produce those records at the time you produce the incarceration records, and whether you want the medical/psych records to be produced subject to the protective order. We, of course, would not insist on their production subject to the order.

As far as what we agreed to provide in the way of personnel information, we did not agree to advise you of "responsive information" as you have defined the term in your 11/30 email. We have always believed that you are entitled to personnel records containing allegations or information similar to the allegations in the complaint, i.e., witness tampering, evidence suppression and fabrication, within the time frame set by Judge Chen. We have never embraced your more expansive definition of "responsive information." As far as information outside of the time frame, as a courtesy, we agreed during the 10/7 meeting to review records created shortly before and after the time frame, and let you know if there was anything similar to the allegations here. We have done that courtesy review, and looked at records as far as 3 years before and after the time frame, and the answer is no.

We understand you believe that you are entitled to more information regarding our clients. We suggest not only a joint letter to Chen stating our positions, but that we submit the files to him for an in camera review along with the letter.

Submitting the joint letter this week is probably not feasible for us. Defendants did not know until yesterday that you would be insisting on an in camera review of the entire files until yesterday; a complete set of the files is not yet available to submit to the court. We are waiting for OCC to provide a full set of files to the City Attorney's office. Another option would be to file the joint letter with the personnel files that are currently available. We would be prepared to do the latter early next week.

Please let me or Jim know how you'd like to proceed on these issues. Thanks.

Lisa-Anne M. Wong  
Moscone, Emblidge & Quadra, LLP

180 Montgomery Street, Suite 1240  
San Francisco, California 94104  
telephone 415.362.3599 x45  
fax 415.362.7332